
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

I.T.R. No.149 of 1989

Date of decision: 1.2.2007

The Commissioner of Income-Tax, Patiala

...Petitioner

Versus

Smt.Vidya Devi Amloh.

...Respondent

**CORAM: HON'BLE MR.JUSTICE M.M.KUMAR
HON'BLE MR.JUSTICE RAJESH BINDAL**

Present: Mr.Yogesh Putney, Advocate for the Revenue.

RAJESH BINDAL, J.

The Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh (for short , ‘the Tribunal) has referred the following question of law which emerges its order dated 18.6.1982 in ITA No.775/Chandi/80 for the assessment year 1970-71:-

“Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in annulling the assessment?”

For the view, which we are taking in the present case, it would not be necessary to narrate the fact in detail. It would be suffice to mention that proceedings under Section 148 of the Income Tax Act, 1961 (for short, ‘the Act’) were initiated against the assessee and an assessment order was finally passed under Section 144 of the Act. In appeal the assessment order was set aside and the matter was restored to the Assessing Officer with a direction to confront the assessee with the relevant material. It was further observed that on a request of the assessee for supply of the reasons for initiating the proceedings under Section 148 of the Act, the same were not supplied to the assessee. In further appeal by the Assessee before the Tribunal, re-assessment order passed by the Assessing Officer was annulled. While doing so, the Tribunal relied upon its earlier order passed in case of

Smt. Jaiwanti Devi. It could not be disputed before us by learned counsel for the revenue that the facts in the case of Smt. Jaiwanti Devi were similar to the case in hand and he further could not dispute the finding recorded by the Tribunal, while dismissing the petition under Section 256(1) of the Act, that the order passed by the Tribunal in case of Smt. Jaiwanti Devi was accepted by the revenue and no further proceedings are taken in that regard. This being the admitted position, keeping in view the principle of consistency and not permitting the revenue to apply the policy of pick and choose as has been held by Hon'ble Supreme Court in **Berger Paints India Ltd. Vs. Commissioner of Income-Tax (2004) 266 ITR 99**, we refrain to go into the questions raised and return the reference unanswered.

(Rajesh Bindal)
Judge

February 01, 2007
Pka

(M.M.Kumar)
Judge